GOVERNMENT OF ANDHRAPRADESH
ABSTRACT

Endowments Department–East Godavari District – Illegal compromise over 160 Sq.yards Land bearing Door No.28-1-33, Rajamahendravaram, belonging to Sri Basava Lingeswara Swamy Temple, Devi Chowk, Rajamahendravaram city – application U/s 93 to set aside illegal orders passed by the then Commissioner – Heard all the parties – orders passed setting aside the orders of the then Commissioner of Endowments and illegal sale deed – Issued.

REVENUE (ENDOWMENTS.II) DEPARTMENT

G.O.Rt.No.394 Dated:18-04-2017

Read the following:-

1. Proceedings of the Commissioner, Endowments Department, Andhra Pradesh in L2/62876/2001, Dt.21- 4- 2005
2. Orders of Hon'ble High Court of A.P., in W.P.M.P.No.30691 of 2014 in W.P.No.24498 of 2014, Dt.26-8-2014.
3. Letter of Commissioner, Endowments, in Rc.No.L2/20152/2014, Dt.17-11-2014.
4. Letter of Regional Joint Commissioner, Endowments Department, Rajamahendravaram in Rc.No.A1/838/2014, dt.28-1-2017.
5. Notice in Memo No. 33599/Endts.II(1)/2014, Dt.01-02-2017 issued to the parties.
6. Arguments submitted by the parties on 16-02-2017.

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In the reference 1st read above, the Commissioner of Endowments has permitted the Executive Officer and Single Trustee of Sri Basavalingeswara Swamy Temple, Devi Chowk, Rajamahendravaram City, E.G.District to withdraw the O.A.No.53/2002 pending before Deputy Commissioner, Endowments, Kakinada, after collecting Rs.3,800/- per Sq.yard for issuing NOC/ to register / to relinquish the rights of the temple over the land of 160 Sq.yards in D.No.28-1-33 of Rajahmundry Town, in favour of one Sri S. Sri Ranganayakulu . Basing on the 1st reference orders of the Commissioner, the Single Trustee of the temple has issued NOC vide his proceedings No.1/2005, Dt.26-4-2015 after collecting the amount @ Rs.3,800/- per Sq.yard but not filed any compromise Memo in O.A.No.53/2002, as the then Regional Joint Commissioner has issued a letter dt.30-5-2005 to all Executive Officers in Multi Zone-I not to affect the orders of the Commissioner until further orders as commotion is going on against the numerous orders issued by the then Commissioner.

2. Against various orders passed by then Commissioner, Sri I.Venkateswarlu, I.A.S., the Government has appointed One Man Commission under the Chairmanship of Justice Venkata Ramaiah. The commission has issued notices to all the parties involved in the subject matter litigation. Heard all the parties in details, and conclusively opined and recommended that :

> " I am, therefore, satisfied that the commissioner has not applied his mind to the facts of the case and considered whether the claim should be compromised in the interest of the temple and did not give any reasons as required under Section 89 of the Act and recorded reasons of his own for ordering Compromise. I, therefore, consider that the order of the Commissioner is illegal and unsustainable".

3. The O.A.No.53/2002 was transferred from the office of the Deputy Commissioner, Endowments Department, Kakinada to the newly constituted Andhra Pradesh Endowments Tribunal and renumbered as O.A.No.256 of 2014. The A.P. Endowments Tribunal has issued notice to Sri S.Sri Ranganayakulu the purchaser to appeal before it in connection with O.A.No.256/2014. The said notice was challenged by Sri S.Sri Ranganayakulu before the Hon'ble High Court of A.P., in W.P.No.24498 of 2014. The Hon'ble Court reference 2nd read above has ordered that :

> " In my opinion as long as the proceedings dt.21-4-2015 and the sale deed dt.11-11-1999 are not set aside by a competent authority, the petitioner, cannot be termed as an encroacher and proceeded against under Section 83 of the Act. Therefore, there shall be interim stay as prayed for. "

4. In the reference 3rd read above, the Commissioner Endowments addressed a letter to the Government with a request to cancel the proceedings of the then Commissioner issued in the reference 1st read above, instead of stay of said proceedings.

5. Notices were issued vide reference 5th read above to Sri S.Sriranganayakulu, Purchaser, Executive Officer Single Trustee of the temple and Regional Joint Commissioner, Endowments Department, Rajamahendravaram to appear before the Government on 16-02-2017. Sri S.Sriranganayakulu has engaged a legal counsel who argued that :

1) The impugned proceedings of the Commissioner are correct.

2) At the time of issuance of the said orders, the M.R.O., certified that the market value is Rs.3,500/- per Sq.Yard.

3) Even though the land does not belongs to temple, as matter of respect towards the deity, they paid the amount as directed in the impugned order.

4) The One Man Commission has not applied it's mind while recommending the Government to annul the impugned order.

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6. The Executive Officer/Single Trustee of the temple has submitted that the property is recorded in Section 43 register of the temple and Municipal records are also in temple's favour and further contended that the purchaser shall not now argue that the temple is not the owner of the land. She further submitted that the temple (a 6 (c) institution) has no other source of income and there are no monies to pay the salaries of Archaka.

7. The Regional Joint Commissioner, Rajamahendravaram has submitted that the property is situated in the heart of the town and the then Assistant Commissioner, Endowments Department, Rajahmundry himself addressed a letter to the Commissioner in Rc.No.A4/7417/2001, Dt.26-7-2004 saying that if the property is sold in Public Auction will fetch more than Rs.5000/- per Sq.yard. The construction, even on date, over the said land is only a temporary one and can be easily removed. If the Hon'ble A.P.Endowments Tribunal passes orders in O.A.No.256/2014, the temporary shed/ strucutre can be easily evicted / removed with in no time. There is no much hardship involved also in the issue. Further contended that one the One Man Commission has already recommended the Government to cancel the impugned proceedings. Further, as the impugned proceedings are amounting to alienation of immovable property by private negotiations , the Commissioner passed those orders dehors the Act provisions and void ab initio. The Regional Joint Commissioner further submitted that the impugned order is totally detrimental to the interest of the institution and will not sustain.

8. Heard all the parties and perused the records submitted by parties.

9. Primafacie, the impugned 1st read above orders of the Commissioner is for alienation of land of the temple by Private negotiations. The Commissioner has no competency as per Section 80 of the Act 30/1987. On this ground alone, the impugned order goes. The sale transaction by the then trustee over the said site for a total consideration of Rs.2 lakhs and executing a registered sale deed on 11-11-1999 vide document No.5250/99 in Joint Sub Registrar Office, Rajahmundry is invalid and illegal as the Trustee has no such power to effect sale of properties and as such he cannot pass a better title to the purchaser. The sale is thus void ab initio. There are no big structures over the property of 160 Sq.yards even to date. When there are no big structures over the property, there is no need or necessity to enter into compromise. Apart from this, the Assistant Commissioner, Endowments Department, Rajahmundry categorically explained in his report dt.26-7-2004 that if the property is sold in tender-cum-Public Auction, it will fetch more than Rs.5,000/- per Sq.yard. The land is situated in the heart of the town. Therefore, the orders of the Commissioner passed reference 1st cited, are set aside. The illegal sale deed registered by the then Trustee on 11-11-1999 vide document No.5250/1999 in Joint Sub-Registrar's office, Rajahmundry is void ab initio and are hereby cancelled accordingly.

10. Further the Executive Officer/Single Trustee is directed to return the sale proceeds, deposited by the purchaser, Sri S.Sriranganayakulu, subsequent to the illegal orders of the then Commissioner in the reference 1st cited, without interest at once, as all these years, the purchaser has been enjoying the property of the temple.

P.T.O.

11. The Executive Officer/Single Trustee and Assistant Commissioner, Endowments, Rajamahendravaram are further directed to seriously pursue the O.A.No.256 of 2014 pending before the Hon'ble A.P. Endowments Tribunal subject to the orders of Hon'ble High Court in W.P.No.24498 of 2014.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

J.S.V. PRASAD,
PRINCIPAL SECRETARY TO GOVERNMENT.

To
Sri S. Sriranganayakulu, S/o Janarthan Murthy, Devi Chowk, Rajamahendravaram (through the E.O. /Single Trustee of the temple)
The Executive Officer/Single Trustee of Sri Basava Lingeswara Swamy Temple, Devi Chowk, Rajamahendravaram.
The Regional Joint Commissioner, Endowments Department, Rajamahendravaram.
The Joint Sub-Registrar, Rajamahendravaram with directions to cancel the document no.5250/99.
The District Registrar, Registration Department, Kakinada, E.G.Dt., for necessary persuasion of cancellation of document no.5250/99 in Joint sub registrar office.
The Assistant Commissioner, Endowments Department, Rajamahendravaram for necessary action.
The Commissioner, Endowments, A.P., Amaravati.
Sf./Scs.

// forwarded :: by order //

Section Officer.